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WILL

OF

BENJAMIN BUSSEY,

OF

ROXBURY.

BOSTON:
1859.
J. H. EASTBURN'S PRESS.

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WILL.

Be it Remembered, that I, BENJAMIN BUSSEY, of Roxbury, in the county of Norfolk, and Commonwealth of Massachusetts, gentleman, being in good health and of sound and disposing mind, but sensible of the uncertainty of life, and desirous to prepare for its close, do make and declare this my last will and testament. Date, July 30, 1835.

It is my will that all my just debts, and the charges on my estate, also all legacies hereinafter given, excepting the annuities hereby created, shall be paid by my Executors, hereinafter appointed, from the proceeds of any of my personal property not herein specifically bequeathed, or appropriated, or from the proceeds of any of my real estate, hereinafter directed to be sold, and not otherwise appropriated. And for that purpose I hereby authorise and empower my said Executors to sell and dispose of all or any of my estate, real or personal, (not herein otherwise bequeathed or appropriated,) at their discretion, for such consideration as they shall deem reasonable, by public vendue or private sale, and to make and execute good and sufficient conveyances in fee simple of such real estate, and suitable transfers of such personal property, and to receive the consideration or price for which the same shall be sold, and give receipts therefor. Debts and Legacies to be paid; and power to Executors to sell real and personal property for the purpose.

I give and bequeath unto my beloved wife, JUDITH BUSSEY, as and for her absolute property forever, all my household goods, furniture, books, plate, wines, carriages, horses, live stock, farming utensils, and movables whatsoever, with their appurtenances Bequest of plate, library, farming tools, carriages, most of furniture, &c., to Mrs. Judith Bussey.

in my mansion-house, and on my farm, in Roxbury, where I now dwell; and all my household goods, furniture and movables in my house and buildings on my estate in Summer street, in Boston,—excepting, however, from this bequest to my wife, all books of accounts, and also the following articles at my mansion-house estate at Woodland Hill, in said Roxbury, viz.: all paintings, engravings, looking-glasses, statuary, the book-cases in the chamber entry; the secretary and commode in the dining-room; the chairs, French bedstead and appurtenances in the south front chamber; and the furniture which at the time of my decease may be in the drawing-rooms: and it is my will that the above-excepted articles of furniture and ornament shall always be kept at my said mansion-house estate in Roxbury, for the benefit and accommodation of those persons who shall from time to time hereafter occupy the same.

Statuary, paintings, and certain other articles to go as appurtenant to Woodland Hill.

$100 to T. Gray, D.D.

I give and bequeath to the Rev. Dr. Thomas Gray the sum of one hundred dollars.

$500 to Boston Female Asylum.

I give and bequeath to the Boston Female Asylum five hundred dollars.

Annuity of $100 to Mrs. Kelley on conditions.

I give and bequeath to Mrs. Kelley, daughter of Avery White, of Hopkinton, in the State of New Hampshire, and granddaughter of my late sister, Olive Billings, the annuity or clear yearly sum of one hundred dollars, to hold to her for and during her natural life, and to be paid to her annually, for her own separate use, and upon her separate receipt, independently of any husband; provided, nevertheless, and the aforegoing bequest of said annuity to the said daughter of said Avery White is upon the express condition that she shall accept the same in full discharge of any and every supposed claim on my estate which she may or might make under or by virtue of the will of Jaazaniah Bussey, her great uncle, or otherwise; and that she and her husband shall release and discharge, to

the satisfaction of my Executors and Trustees, all bonds and obligations, claims and demands, he and she, or either of them, have or may have against my heirs, representatives, and estate.

Statement of testator's objects in this will.

Before proceeding to make a further disposition of my property and estate, I think it will tend to elucidate and explain the several devises and dispositions thereof, hereinafter made, to state that in making this will I have two objects chiefly in view. My primary object has been to provide in the best and most secure manner in my power, a comfortable and respectable living after my decease, for my family, viz.: my wife, if she shall outlive me, and my daughter and her children now living, and to make some provision for great-grandchildren. My second object has been to benefit my fellow-citizens and posterity, according to my ability, by devoting ultimately a large portion of my fortune to promote those branches of education which I deem most important, and best calculated to advance the prosperity and happiness of our common country. I have also felt a particular desire to increase the usefulness of the schools of law and theology at Harvard College, in Cambridge. In a nation whose government is held to be a government of laws, I deem it important to promote that branch of education which lies at the foundation of wise legislation, and which tends to ensure a pure and uniform administration of justice; and I have considered that in a country whose laws extend equal protection to all religious opinions, that education which tends to disseminate just and rational views on religious subjects, is entitled to special patronage and support. With these purposes and views, I do hereby devise and bequeath to seven Trustees, to wit, to John R. Adan, Esq., George H. Kuhn, merchant, both of Boston; Francis C. Head, of Roxbury, merchant, my Executors; together with John Quincy Adams, late President of the United States; Samuel P. P. Fay, of Cambridge, Esq.; John C. Dexter, and Nathaniel G. Snelling, Esq., both of said Boston, or to such of them as shall accept this trust, all my

Devise to seven Trustees of all property, not otherwise devised and appropriated, and executing what Executors may sell.

property and estate whatsoever, real, personal and mixed, in the States of Massachusetts and Maine, and wherever else situated, and however described, excepting what is herein specifically devised, and appropriated; and, excepting what shall be sold and disposed of by my Executors for the payment of my just debts, legacies, and the charges on my estate,—to have and to hold the same to them and their assigns, and the survivors of them and their assigns, and to the survivor of them, his heirs, executors, administrators, and assigns; but in special trust and confidence to hold, manage, and dispose of the same, and the rents, income and profits thereof, as herein directed.

Trustees to deduct taxes, repairs, insurance, and their compensation.

And as to the estate and property so devised to said Trustees, and the income and proceeds thereof that may come to their hands in trust for the uses and purposes of this my will, I order and direct that after deducting all charges for taxes, insurance, repairs, services and expenses incident to the execution of said trusts, my said Trustees shall pay the annuity, or clear yearly sum of seven thousand dollars to my wife, in every year during her natural life, or the whole amount of said net income, if it do not exceed seven thousand dollars. And if the said net income and profits of said trust property, and estates, shall exceed the said sum of seven thousand dollars, but shall not be sufficient to pay all the annuities herein given, the deficiency shall fall upon the other annuities in the ratio of their respective amounts; but no part of such deficiency shall fall upon the said annuity given to my wife.

Trustees to pay Mrs. Judith Bussey annuity of $7,000, or whole net income if less than $7,000.

If funds sufficient to pay Mrs. Bussey's annuity and more, but not sufficient to pay all the other annuities, they are to be paid *pro rata*,—no abatement to fall on hers.

Annuity of $3,000 to his daughter Eliza; void by her decease.

To my daughter Eliza, formerly the wife of Charles Davis, late of said Boston, Esq., deceased, I give and bequeath the annuity or clear yearly sum of three thousand dollars, to be paid to her in semi-annual payments in every year during her natural life, for her own separate use, on her individual receipt independently of any husband; and I direct my said Trustees to pay the same accordingly.

To the said Francis C. Head, and to each of my granddaughters, Eliza Bussey Dexter, and Maria Bussey Motley, during the natural life of them respectively, and the life of my wife, I give the annuity or clear yearly sum of one thousand dollars—to be paid in every year to each of them—and the sums to be so paid to each of my said granddaughters, to be paid for her separate use, on her separate receipt, independently of any husband. And each of the three last-mentioned annuities (to said Francis C. Head, and my said two granddaughters,) shall cease at the death of my wife; and I direct my said Trustees to pay the same accordingly.

Annuities of $1,000 each, to Francis C. Head, Eliza B. Dexter, and Maria Bussey Motley, for life: during life of Mrs. Bussey.

And the said Trustees are hereby further directed to pay out of the trust funds which may be in their hands the following annuities and sums, to wit: To the said Francis C. Head, formerly husband of my granddaughter, Eleanor, deceased, fifteen hundred dollars; to the children of said Francis and Eleanor, and to the survivors and survivor of them, in equal shares, fifteen hundred dollars;—to my granddaughter, Eliza Bussey Dexter, wife of John C. Dexter, three thousand dollars;—and to my granddaughter, Maria Bussey Motley, wife of Thomas Motley, Junior, three thousand dollars in every year during the natural life of them respectively after the death of my wife, and during the life of my daughter. And after the death of both my wife and daughter, to pay to the said Francis C. Head two thousand dollars; to the children of said Francis and Eleanor, and to the survivors and survivor of them, in equal shares, two thousand dollars;—to my granddaughter, Eliza Bussey Dexter, four thousand dollars;—and to my granddaughter, Maria Bussey Motley, four thousand dollars, in every year during the natural life of them respectively. And it is my will that the annuities to be so paid to each of my said granddaughters shall be for her separate use, and be paid on her separate receipt independently of any husband. And if

Annuities to same after Mrs. Bussey's death, *during life of Mrs. Stuart.*

After death of Mrs. Bussey and Mrs. Stuart: annuities to Francis C. Head, $2,000; to the children of him and his late wife, survivors and survivor, $2,000; to Eliza B. Dexter, $4,000; and Maria B. Motley, $4,000. Husband of either of said Mrs. Dexter and Mrs. Motley surviving his wife, to have one half of her annuity; and their children to have the other half.

either of my said granddaughters (Eliza Bussey Dexter, or Maria Bussey Motley,) shall die during the life of her mother or grandmother, or afterwards, leaving a husband, I direct my said Trustees to pay to such husband, in every year during his natural life, one half of the annuity to which his wife would be entitled, if living; and in case either of my said granddaughters shall die, leaving a child or children, my said Trustees shall pay the other half of the annuity to which their mother would be entitled, if living, to such her child or children, the survivors and survivor of them, in equal shares, during their natural life.

To each child of his granddaughters (including Eleanor's,) surviving their mother, legacy of $3,000 at twenty-one years of age, &c.

To each and every the child or children of my said granddaughters respectively, (including the children of said Eleanor,) who may survive their mother, I give and bequeath, and direct my Trustees to pay the legacy or sum of three thousand dollars, which legacy shall be paid to each and every of them on their arrival at twenty-one years of age, with interest from and after the decease of both their father and mother, until such their arrival at twenty-one years of age. And if any of them shall be of full age at the decease of their mother, the said legacy or sum of money shall be paid to each and every of them, as soon as may be after her decease.

Annuity of $200 to Mrs. Lucy Bussey.

To my sister-in-law, Mrs. Lucy Bussey, I give and bequeath, and direct my said Trustees to pay the annuity or sum of two hundred dollars yearly, in every year during her natural life.

Farm in Canton to his mother-in-law, Mrs. Ruth Bussey, for life. (She is dead).

I give to my aged mother-in-law, Mrs. Ruth Bussey, the use, income, and improvement of my farm in Canton, in the said county of Norfolk, on which she now dwells, and of the buildings thereon, and the appurtenances thereof, for and during the term of her natural life;—she keeping the same in suitable

repair, and paying all taxes thereon;—also the right and authority to cut and take as much wood for fuel from said farm as she may require for her own use and consumption, but not any to be sold, or used, or consumed by others.

Annuity to David Bussey and wife. Devise of farm in Lincolnville.

To my uncle, David Bussey of Lincolnville, in the State of Maine, and to his present wife, I give and bequeath the annuity or sum of one hundred dollars, to be paid to them and the survivor of them, annually, during their lives; and I direct my said Trustees to pay the same accordingly. I also give, devise, and bequeath, to the said David Bussey, and his said wife, during their joint lives, and to the survivor of them, during his or her life, the use and improvement of all that farm, and the lands now held by them, and on which they reside. And at and after the decease of the survivor *of them*, (the said David and his said wife,) I devise and bequeath the use and improvement of the same farm and lands unto the wife of said David's son, Samuel Bussey, during her natural life;—and at and after the decease of said David and his said wife, and of the wife of said Samuel Bussey, I give and bequeath the same farm and lands with the privileges and appurtenances thereof to Jaazaniah Bussey, the son of said Samuel Bussey's wife, to have and to hold the same to him, his heirs and assigns, to his and their use and behoof forever.

Annuity of $500 to Elizabeth B. Ingalls.

To Elizabeth Bussey Ingalls, daughter of my brother-in-law, Daniel Ingalls, I give and bequeath the annuity or clear yearly sum of five hundred dollars,—to be paid to her in semi-annual payments, in every year during her natural life, for her separate use, on her individual receipt, independently of any husband; and I direct said Trustees to pay the same accordingly.

Annuity of $500 to Frances C. Greenough.

To Frances Catharine Greenough, wife of Walter Greenough, and daughter of my brother-in-law, Daniel Ingalls, I give and bequeath the annuity or clear yearly sum of three

hundred dollars, to be paid to her in semi-annual payments, in every year during her natural life, for her own separate use, on her individual receipt, independently of any husband; and I direct my said Trustees to pay the same accordingly.

Annuity of $1,000 to Daniel Ingalls and wife, quarterly or semi-annually — survivor to have half of said annuity.

To my brother-in-law, Mr. Daniel Ingalls, during the joint lives of himself and his present wife, Lydia, I give and bequeath the annuity or clear yearly sum of one thousand dollars, to be paid by my Trustees in semi-annual or quarter-yearly payments as they shall judge expedient; and from and after the decease of either of them, the said Daniel Ingalls, or his said wife, I give and bequeath to the survivor of them, for and during his or her natural life, the annuity or clear yearly sum of five hundred dollars, to be paid by my said Trustees in semi-annual or quarter-yearly payments as aforesaid.

Annuity of $100 to Mrs. Mary Blasland.

To Mrs. Mary Blasland, of Bath, in the State of Maine, daughter of my uncle, David Bussey, I give and bequeath the annuity or clear yearly sum of one hundred dollars, during her natural life, to be paid to her by my said Trustees, in every year during that term.

Annuity of $50 to Mrs. Anna Sherman.

To Mrs. Anna Sherman, who has been in my service at my farm house for many years, I give the annuity or clear yearly sum of fifty dollars as a reward for her fidelity; and I direct my said Trustees to pay the same to her in every year during her natural life.

Time of paying annuities.

It is my will and direction that the annuities hereby created shall be payable from the time of my decease, either at the end of the year thereafter, or at such periods and by such instalments, during the year and in every year, as my said Trustees may find convenient; but I desire that the payments may be at least as frequent as herein directed. And in case of the failure of the annual income and rents, and profits of my estates and

Abatement of annuities, if income insufficient.

property, so held in trust, by reason of which the annuities hereby created cannot be fully paid, the said annuities shall abate in manner and form as before directed. But if such failure shall proceed from temporary causes, so as to make it practicable and safe in the opinion of said Trustees, to make up the deficiency by borrowing on the credit of the future income, rents and profits of said trust property and estates, said Trustees are authorized to do so. But it is my will that only the income, but no part of the principal of the trust property shall be applied to the payment of the annuities herein given.

Power to borrow for paying annuities.

Through the goodness of Divine Providence I have lived to an advanced age, and have witnessed many and great changes with regard to property—which, with the uncertainty attending the investments of money, have brought me to a well founded opinion, as I believe, that good real estate in the city of Boston and its vicinity, will prove the safest and most durable property from which to raise a permanent fund for the accomplishment of the purposes of my will,—I do, therefore, order and direct that my real estate in Summer street, my two houses and land in Franklin Place, my five stores and land in Broad street, my three stores and land in India street, Milk street, and Battery-march street all in said Boston; my real estate in Roxbury, where I now live, and all my real estate in Dedham, (excepting my mills, manufacturing establishments, and the lands, buildings, and the privileges and appurtenances connected, improved, or occupied therewith,) be not sold or alienated, but reserved for the purposes of this will. And after the decease of my wife, as soon as sufficient funds can be obtained, from time to time, from my lands in the State of Maine, without any sacrifice thereof, or from funds (not hereby otherwise especially appropriated,) to erect new houses on my said estate in Summer street, in said Boston, I hereby request, authorise, and direct, my said Trustees to cause such houses, with suitable out-buildings and appurtenances, to be built thereon. By taking down

Certain real estate not to be sold or alienated; but codicil, p. 28, authorises sale of real estate in Summer street.

Instructions to erect houses on land in Summer street. Revoked by codicil.

the present house and buildings on said estate in Summer street (which my Trustees are authorised to do,) there will be sufficient room to build and complete four handsome houses and their appurtenances, on said estate, fronting on said street; and six houses, of a convenient but smaller size, in the rear. I desire the fronts of the said houses on Summer street may be built of the best hammered granite, and the rear of unhewn stone; and my Trustees will set off for the accommodation of each of said houses, as much of said land, for yards and other purposes, as they may deem requisite.

One of my principal objects in the erection of said houses is to provide, as soon as conveniently may be after the decease of my wife, suitable places of residence for those of my family, for whose use and benefit I have hereinafter devised the same. And I hereby request and direct my Trustees, upon the completion of said houses on Summer street, to permit said Francis C. Head, and said Maria Bussey Motley, respectively, to occupy one of said houses, and the land and appurtenances belonging or appropriated thereto, or to take the rents and profits thereof during the life of them respectively; and one of said houses, and the land and appurtenances appropriated thereto shall be assigned to each of them, the said Francis C. Head, and said Maria Bussey Motley, by my Trustees, as they the said Trustees shall think proper. And if said Maria Bussey Motley shall die leaving a husband, such husband shall be permitted, during his life, to occupy and enjoy, and take the rents and profits of that one of said four houses, and the land and appurtenances belonging or appropriated to it, previously assigned to said Maria Bussey Motley, or which said Trustees may assign to him. And from and after the decease of said Francis C. Head, I give, devise, and bequeath to the heir or heirs at law of said Francis C. Head and his late wife, Eleanor, then living, that one of said four houses on Summer street, and the land and appurtenances belonging or appropriated to it, previously assigned to him, or

which said Trustees, in case of no such previous assignment, may assign to such heir or heirs at law of said Francis C. and Eleanor, to have and to hold the same to such heir or heirs at law, their, his, or her, heirs and assigns, in fee simple forever. And from and after the decease of my said granddaughter, Maria Bussey Motley, leaving issue living at her decease, I give, devise, and bequeath to her heir or heirs at law, that one of said four houses on Summer street, and the land and appurtenances belonging or appropriated to it, previously assigned to her, or which said Trustees, in case of no such previous assignment, may assign to her heir or heirs at law, subject to the right of her husband, if he survive her, to enjoy the same, as hereinbefore provided, during his life,—to have and to hold the same to such her heir, or heirs at law, (subject as aforesaid), and to their, his, or her, heirs and assigns, in fee simple forever. And I direct that the taxes, and expense of insurance and repairs, on said houses and estates on Summer street, (herein devised for the benefit of said Francis C. Head, and Maria Bussey Motley, respectively, and their respective descendants,) after they shall be finished, shall be paid by the occupants thereof respectively. And I do hereby order and direct said Trustees to hold said houses and the land and appurtenances belonging or appropriated to them respectively, so occupied by said Francis C. Head, said Maria Bussey Motley or her husband, in trust, and for the uses and purposes aforesaid, or to convey them respectively by fit and proper deeds to the uses aforesaid, so that a life estate in one of them may be secured to said Francis C. Head, and an estate in fee simple *therein* to the heirs at law of him and said Eleanor. And so that a life estate in one of them may be secured to said Maria Bussey Motley and her husband; and an estate in fee simple therein to her heirs at law.

Real estate on Washington St. disposed of. Revoked by codicil.

And further I hereby authorize and direct *my Trustees* to permit my granddaughter Eliza Bussey Dexter, wife of John C. Dexter, to occupy and improve the tract of land and buildings

thereon, with the appurtenances, situate near Washington street, in said Boston, recently conveyed to me by the Massachusetts Fire and Marine Insurance Company, or to take the rents and profits thereof during her life; and if said Eliza Bussey Dexter shall die, leaving a husband, such husband shall be permitted during his life to occupy and enjoy or receive the rents and income of said real estate near Washington street: And from and after the decease of my said granddaughter, Eliza Bussey Dexter, leaving issue *living* at her decease, I give, devise and bequeath, to her heir or heirs at law, the said real estate near Washington street, subject to the right of her husband, if he survive her, to enjoy the same as herein before provided, during his life: To have and to hold the same to such her heir or heirs at law (subject as aforesaid) and to their, his or her heirs and assigns, in fee simple, forever. I direct that the taxes and expense of insurance and repairs on said real estate, near Washington street, shall be paid by the occupants thereof—and I direct my Trustees to hold the said real estate near Washington street, so occupied by said Eliza B. Dexter or her husband, in trust and for the uses and purposes aforesaid, or to convey the same, by fit and proper deeds, to the uses aforesaid; so that a life estate therein may be secured to said Eliza Bussey Dexter and her husband, and an estate in fee simple therein to her heirs at law.

About building houses on Arch St. Revoked by codicil.

And my *said* Trustees are directed to erect as many of the other houses as they shall deem expedient, upon said other land, as before mentioned, in the rear of said Summer street, fronting Arch street, whenever they have funds sufficient for the purpose, without interfering with the general objects and avowed purposes of my will.

Estates in Summer St. and at Roxbury to Mrs. Bussey for life,—she paying taxes, &c.

Provided always, and it is my will that, after my decease, my wife during her natural life, shall use, occupy and enjoy, my dwelling-house and land in said Summer street, or take to

her own use the rents and profits thereof,—and also that during her natural life, she shall use and occupy (but not let or demise) my mansion-house and estate in said Roxbury, called "Woodland Hill," where we now reside, with the appurtenances thereof; she keeping the buildings on said respective estates in good repair, to the satisfaction of said Trustees, and paying all taxes and duties that may be assessed thereon. And it is my will that the erection of the buildings as aforesaid on my land in said Summer street shall be postponed until after the decease of my wife.

Woodland Hill to the personal use of Mrs. Bussey—F.C. Head—Mrs. Dexter, and Mrs. Motley—each for life, paying taxes and repairs.

As to my mansion-house estate and farm in Roxbury, where I now live, called "Woodland Hill," it is my will that it shall go successively, to the personal use and occupation of my wife, said Francis C. Head, and my said granddaughters, Eliza Bussey Dexter, and Maria Bussey Motley, in the order in which I here name them, upon the conditions hereinafter mentioned, provided they shall so occupy the same. And it is my will that my said wife may occupy, use and improve the same, for her personal residence, in every year or during such portions of every year as she shall elect, during the term of her natural life, on conditions that she keep the buildings, fences, and all other the improvements thereon in good repair, to the satisfaction of said Trustees, and pay all duties and taxes which may be assessed and levied thereon during said term. And from and after the decease of my said wife, or in case she shall not elect so to occupy the same as aforesaid, or shall fail to comply with said conditions, then in further trust to permit the said Francis C. Head to occupy the same for his personal residence during his natural life, upon the conditions and with the restrictions before mentioned concerning my wife. And from and after the decease of said Francis C. Head, or in case he shall not elect so to occupy the same for his personal residence, or shall fail to comply with said conditions, then in further trust to permit my said granddaughter, Eliza Bussey Dexter, so to occupy the same

for her personal residence, during her natural life, upon the conditions and with the restrictions before mentioned concerning my wife: And from and after the decease of my said granddaughter, Eliza Bussey Dexter, or in case she shall not elect so to occupy the same for her personal residence, or shall fail to comply with said conditions, then, upon the further trust, to permit my said granddaughter, Maria Bussey Motley, so to occupy the same for her personal residence, during her natural life, upon the conditions and with the restrictions before mentioned concerning my wife. And I give to said Francis C. Head and to each of my said granddaughters during the time that they respectively shall personally occupy my said mansion-house and estate in Roxbury, called "Woodland Hill," in conformity to the said conditions, restrictions and limitations, during the life of my said wife, the annuity or clear yearly sum of two thousand dollars, which annuity shall cease at the death of my wife: and said annuity, when payable to either of my said granddaughters, shall be for her separate use, and benefit, and be paid to her on her separate receipt, independently of any husband: And I order and direct my said Trustees to pay said annuity accordingly.

The annuity of $2000 to F. C. Head, Mrs. Dexter, and Mrs Motley, while occupying Woodland Hill, *during life* of Mrs. Bussey.

And from and after the decease of my said wife, of said Francis C. Head, and of my said granddaughters, or in case they shall elect not to occupy my said mansion-house and estate in Roxbury as aforesaid, for their personal residence respectively, or shall fail to comply with the aforementioned conditions and restrictions, then to convey my said mansion-house and estate in Roxbury, called "Woodland Hill," and the appurtenances thereof, by good and sufficient deed or deeds of conveyance, to the President and Fellows of Harvard College, their successors and assigns, in fee simple, for the purposes hereinafter mentioned: And such deed or deeds shall be made in such manner and form, and contain such limitations *and provisions*, as my said

After death of Mrs. Bussey, F. C. Head, Mrs. Dexter, and Mrs. Motley, each, to occupy Woodland Hill for life: If they refuse to do so, it shall be conveyed to H. College.

Trustees may deem proper and requisite for the accomplishment of my intentions.

Trustees to pay for permanent and expensive repairs.

And whereas repairs of a permanent and expensive nature may possibly be required on some of my estates, and the interest which the occupants thereof may hold therein, at the time, may be so uncertain or so brief that it might be deemed unjust or onerous for them to incur the same, now I hereby fully authorize and empower my Trustees to cause any or all such repairs to be made as they in their discretion may deem proper and expedient, and to pay for the same from the trust funds which they may hold not otherwise disposed of.

Trustees to sell lands in Maine, mill-pond lands, and other real estate; land and quarries in Frankfort, and manufacturing establishments in Dedham.

And I do further *order* and direct my said Trustees herein named and to be hereafter named and appointed, as soon after my decease as they shall deem it may be advantageously done, to sell all my lands and real estate in the State of Maine,—also all my mill-pond lands in said Boston, and all other real estate herein devised to them, excepting my Summer-street estate; my houses and stores aforesaid, in said Boston and elsewhere, herein reserved and directed not to be sold, and excepting also the estates herein otherwise specifically appropriated, bequeathed, or disposed of. I also authorize and empower my said Trustees, if they shall deem it expedient, to sell my manufacturing establishments, mills, mill privileges, and all buildings and lands connected, used, or occupied with said establishments, and all rights, privileges, and appurtenances thereof, situate in said Dedham; also all my lands and granite quarries situate in Frankfort, in the County of Waldo and State of Maine; meaning and intending hereby to submit to the discretion and judgment of said Trustees the expediency of selling the said manufacturing establishments and real estate in said Dedham, and said lands and quarries in said Frankfort.

Real estate in Dedham may be let for not over 99 years. Land in Roxbury not to be let. But see codicil.

I also authorize and empower my said Trustees, if they shall deem it expedient, to lease and demise for such rents, and on such terms and conditions, as they shall deem prudent and expedient, but not in any case for a longer term than ninety-nine years, all or any of my lands and real estate, situate in said Dedham. But as it would be inconsistent with my views and objects that any of my lands in Roxbury should be so disposed of, it is my will that no part thereof shall be leased or demised.

Leases and deeds by Trustees. Powers of a majority of Trustees.

And I further order and declare, that in all cases, in which authority is hereby given to lease, demise, or sell real estate or personal property, my will and intent is, that the same may be leased, demised, sold and disposed of, in whole or in part or parcels, for cash or on credit, by public vendue or private sale, for such prices, and upon such terms and conditions, as the said Trustees shall think proper and best calculated, in their judgment, to accomplish my wishes and objects. And that my said Trustees may execute good and sufficient conveyances of all real estate so sold, to the purchaser or purchasers thereof, in fee simple or for any less estate. And in the execution of the trusts, powers and duties, hereby created and given to said Trustees, I do hereby declare that the same and every of them may be executed and discharged by the major part of said Trustees in number, for the time being, and that all deeds executed by such majority shall convey any parcel or parcels of real estate to a purchaser or purchasers in the same manner and with the same validity as if executed by all said Trustees.

Trustees to dispose of income, invest, &c.

And said Trustees are further directed and fully authorized to demise and let all the estates, not otherwise appropriated or disposed of, for such time or times, and upon such terms and conditions, as they shall deem expedient—and after paying the charges and expenses incident to said trust, to hold the rents, income and profits, of said trust property and estates, together

with the proceeds of so much of said trust property and estates as shall be sold by them, for the payment of annuities and other sums hereby directed to be paid, and for building the houses on my said estate in Summer street, pursuant to this my will, whenever the amount so received and not otherwise appropriated shall be sufficient for that purpose—and as funds shall be received from the sales of said trust property, or otherwise, beyond the actual charge thereon for annuities and other payments and expenses, I hereby direct said Trustees to invest the same from time to time, in public or private stocks of any kind, or in loans on adequate security—and said Trustees shall have power, at all times, to collect the income of such investments, to call in any or all such loans, and to sell by public vendue or private sale, for such consideration, and on such terms, as they shall deem expedient, any and all such stocks, to make good and sufficient conveyances and transfers thereof,—and to loan or reinvest the same or the proceeds thereof as they shall think proper: having at all times in view, in every such loan or investment, and in every such change of securities, the trusts and intentions herein expressed, and the two great objects of safety and productiveness.

Investments and sales and changes thereof, by Trustees.

As I consider my manufacturing establishment in Dedham, which has cost me over one hundred thousand dollars, a valuable and productive property, and as I have the most entire confidence in the integrity and talents of George H. Kuhn, by whom said establishment is now conducted, under a written contract which will expire in December, A. D. eighteen hundred and thirty nine,—now if, at the expiration of said contract, or of any future contract between said Kuhn and myself, the said establishment shall be found profitable and said Kuhn shall be willing to continue the business under said contract, or under a like contract, my said Trustees, if they think it advisable, are hereby authorized to contract with him for that purpose:

Dedham Factory, and contract with Geo. H. Kuhn.

and the appropriation of sufficient funds therefor shall be deemed a good execution of the trusts reposed in them respectively; but I would not have them, by any means, hazard the great objects I have in view.

F. C. Head to have farm-house, for Mrs. B.'s life.

As my grandson, the said Francis C. Head, is well acquainted with my views and objects concerning my real estate in said Roxbury, it is my wish that he continue to reside in my farm-house, now occupied by him, on my estate called "Woodland Hill,"—and I request and direct my Trustees to permit the said Francis C. Head to use and occupy the same during the life of my wife, free from the payment of rent or any compensasation therefor—and said Trustees shall assign to him such part or parts of said farm-house and of the land and out-buildings near the same, as they shall deem necessary for his comfort and convenience;—but in no event shall less of said farm-house be assigned to him than he now occupies. In making this provision for him my principal object is that he may reside in said farm-house, near my wife, during her life, in order that she may have the same advantage I have derived from his advice and assistance.

Trustees to complete walls and fences.

Should I not complete all the walls and fences on my estate in Roxbury, which I deem requisite, before my decease, I direct my Trustees to make and complete the same without any unnecessary delay,—especially a new wall (in continuation of that lately relaid in front of my barn) to be constructed in the most thorough manner, with heavy top-stones, that may not be easily disturbed, and to extend to the end of my land on the road leading towards the meeting-house. Mr. Francis C. Head is well informed of my particular wishes concerning all said walls and fences.

Trustees to keep books of accounts, &c.

And my said Trustees are further ordered and required to keep regular books and accounts, to show clearly all their trans-

actions, to be open to all persons interested therein, upon their reasonable request at all times.

Woodland Hill to be conveyed to Harvard College.

And I do further order and direct, that from and after the time that my said mansion-house and estate in Roxbury, called "Woodland Hill," shall cease to be occupied by any of my family, pursuant to the directions herein given, that the same be conveyed by my said Trustees to the President and Fellows of Harvard College, for the purposes hereinafter mentioned;—and I do further order and direct, that, after the payment or security of payment of all the several sums of money and annuities hereby ordered to be paid by my said Trustees, and after all the purposes of said trusts, so far as respects my family and all annuitants herein mentioned shall have been secured and accomplished, all the residue of said trust property and estates, real, personal, and mixed, with the proceeds and accumulations thereof, shall be conveyed and transferred by my said Trustees to the President and Fellows of Harvard College.

After payment of all legacies and annuities, residue of property to be conveyed to Harvard College.

Trustees may pay and convey to H. College any surplus of property not needed for annuities, &c.

And, further, if after a part of said annuities shall have fallen in, a larger amount of property shall remain in the hands of my Trustees than shall, in their opinion, be necessary to yield an income sufficient to pay the remaining annuities, and to accomplish the other remaining objects and purposes of said trusts, then my said Trustees are hereby authorised and directed to pay over, and transfer, and convey, so much of said trust property, real and personal, as they may deem expedient, to the said President and Fellows of Harvard College; and such transfer and conveyance shall be deemed, as far as it shall extend, a good execution of said trust. And in case the said President and Fellows of Harvard College shall, at any time after the decease of my wife, assume upon themselves and give security (to be approved by my said Trustees,) for the payment of the annuities and other sums hereby given, and for the performance of all the

After death of Mrs. B., property may be conveyed to H. College,—it securing payment of annuities, &c., to satisfaction of Trustees.

other trusts hereby enjoined upon my said Trustees, my said Trustees are hereby ordered and directed to pay over, transfer, and convey in fee simple, to said President and Fellows of Harvard College, by good and sufficient conveyances, all the trust estates, real and personal, hereby conveyed to them, or remaining in their hands, to and for the uses and purposes hereinafter declared.

All annuities and sums directed to be paid, are charged on real estate devised in trust, excepting the case of deficiency of funds to pay annuities.

And I do hereby direct and declare that all annuities and sums of money, herein given or ordered to be paid, are hereby charged upon the estates hereby conveyed to my said Trustees, and not herein directed to be sold, with a right to the annuitants to enter upon all or any of them, and to take the rents and profits thereof, if my said Trustees shall fail to pay the annuities in manner hereinbefore directed, until the same shall be fully paid.

Provided that there shall be no such right of entry in any case where the said Trustees shall be unable to pay said annuities, in consequence of a deficiency of funds in their hands, applicable to that purpose.

Duties of President and Fellows of Harvard College.

And I do hereby further declare, that all the real and personal property and estate so conveyed, transferred, and delivered to the President and Fellows of Harvard College, shall stand charged and chargeable with the said annuities and payments, if not paid or provided for, and shall be taken and held by said President and Fellows of Harvard College as a permanent, public corporate body specially charged with the care and superintendence of the higher branches of education, *upon the trust and confidence* that they will manage and invest the same to the best advantage; that they will retain the estate on which I now live, in said Roxbury, called "Woodland Hill," consisting of over two hundred acres of land, as a place in my judgment well adapted, from the great variety and excellence of its soil, its hills,

Harvard College to retain Woodland Hill, "Bussey Institution," and objects of it.

valleys and water, its great diversity of surface and exposure, and, lastly, its high state of cultivation and improvement, for all the objects contemplated. That they will establish there a course of instruction in practical agriculture, in useful and ornamental gardening, in botany, and in such other branches of natural science, as may tend to promote a knowledge of practical agriculture and the various arts subservient thereto, and connected therewith, and cause such courses of lectures to be delivered there, at such seasons of the year, and under such regulations as they may think best adapted to promote the ends designed; and also to furnish gratuitous aid, if they shall think it expedient, to such meritorious persons as may resort there for instruction: the institution so established shall be called the "Bussey Institution."

Said Institution to have half of yearly income of property to be conveyed to Harvard College. Residue to be divided equally between Divinity School and Law School.

And it is my will that one half of the net income of all my estates and property, so conveyed to said President and Fellows of Harvard College shall be appropriated to the support of said institution, and of such branches of instruction in the physical sciences, there or at Harvard College, as are subservient thereto, and connected with the great objects of said institution: and it is my will that the other half of the net income of said estates and property, so conveyed to said President and Fellows of Harvard College, shall be annually appropriated, one half thereof to the encouragement and promotion of theological education, and the other moiety to the encouragement and promotion of legal education in said College, by the endowment of professorships or scholarships in the Theological and Law schools respectively; by the purchase of books, erection of buildings, and by such other means as may, in their judgment, render the income of the property hereby appropriated most available in the accomplishment of the objects proposed.

Trustees to buy Weld's Lot of about 15 acres, and Whitney Estate. The last bought by deceased.

There are two tracts of land, adjoining my said estate called "Woodland Hill," which, if purchased on reasonable terms, would, in my opinion, be highly advantageous to the above-mentioned agricultural and horticultural institutions;—one of the said two tracts of land is bounded, westerly, on my said estate called "Woodland Hill;" is part of the estate of the late Mr. Thomas Weld, deceased, and is said to be now owned by two of his children—it is estimated to contain about fifteen acres. The other of said two tracts of land lies southwest of my said estate called "Woodland Hill;" belongs to the heirs of the late Mr. Whitney of said Roxbury; contains about sixty acres, and upon it are a house, barn, and out-buildings; and I hereby authorise, empower, and earnestly request my Trustees, the survivors and survivor of them, and their successors, (in case I shall not purchase the two last-*mentioned* tracts of land,) to purchase the same, or so much thereof as they can, on such terms as they may deem reasonable; and for that purpose to use and expend any of the trust funds which they may hold by virtue of my will, not appropriated for other purposes. And it is my will that the two last-mentioned tracts of land, or so much thereof as shall be purchased as aforesaid, and the income and profits thereof, shall be subject to the same trusts, limitations, and provisions, and be held and appropriated by the same persons, for the same uses, intents, and purposes, as are herein expressed and contained, concerning my said estate called "Woodland Hill."

Building to be erected for Institution on Plain-field.

And being desirous that every proper accommodation should be secured for the officers and pupils of said institution, I hereby order and direct my Trustees, as soon as they shall deem it expedient and consistent with the state of the trust funds, to cause to be erected on the "Plain-field," so called, next easterly of my farm garden, and bounded southeasterly on the road running from said "Woodland Hill" to Boston, an edifice, with convenient out-buildings, suitable in all respects for said institution: the said edifice to be not less than ten rods from said road; the

exterior walls thereof to be built of stone in blocks (not hammered), or to be similar to the front wall of the "Masonic Temple," so called, in said Boston. And I earnestly enjoin it upon my Trustees to have the said edifice constructed and completed, with a proper regard to durability and beauty, and so as best to secure the comfort and convenience of the inmates of said building.

Legacy of $1000 to Chief Justice Shaw.

In testimony of the high respect and great regard I entertain for my friend, the Hon. Lemuel Shaw, I give and bequeath to him the sum of one thousand dollars. It would gratify me to be able to appoint him one of the Executors and Trustees in this my will; but I refrain from doing so lest the performance of these trusts would interfere with his official engagements, or be incompatible with the duties of his office of Chief Justice.

To John Quincy Adams, Samuel P. P. Fay, and N. G. Snelling, $1000 each—half in one year, and half in two years.

I give and bequeath to John Quincy Adams, Samuel P. P. Fay, and Nathaniel G. Snelling, three aforenamed Trustees, the sum of one thousand dollars, to each of them; and I direct that the said legacies, payable to the four last-named persons, be paid one-half in one year, and one-half in two years after my decease. But I wish it to be distinctly understood, that this bequest to the three persons last-named is in no manner to be considered as forming any part of the compensation for the services which said Trustees may render in the settlement of my estate, and in carrying into effect my intentions expressed in this my last will and testament, as I make this bequest on account of the respect and esteem I entertain for them;—and it is my wish and intention that they should receive a fair and reasonable compensation for all the services they may have to perform in relation thereto.

Trustees appointed by Testator not to give bonds.

Having entire confidence in the integrity of each of the Trustees herein appointed by me, I direct that neither of them

shall be required to give bond, at any time, for the faithful performance of the trusts herein reposed in them.

Each Trustee to be liable for himself, and his own wilful defaults.

And it is my will that each of my said Trustees shall be liable only for his own receipts, payments, and wilful defaults in the premises, and not otherwise; nor be answerable for any loss or damage which may happen to the trust premises without their respective wilful default.

New Trustees,—how appointed.

And in case the number of said Trustees shall, at any time hereafter, be reduced *to less than five*, it is my will that the Judge of Probate, having jurisdiction of this my will, or one or more of the Justices of the Supreme Judicial Court of said Commonwealth, shall, from time to time, appoint some other suitable person or persons to be Trustee or Trustees in the place of the Trustee or Trustees dying, refusing to accept said trusts, relinquishing the same, or from any cause ceasing to be a Trustee or Trustees; and it shall be lawful for any of said Trustees to relinquish said trusts at pleasure; and the person or persons who may be duly appointed Trustee or Trustees in the place of the Trustee or Trustees so dying, refusing, resigning, or ceasing to be a Trustee or Trustees, shall have the same power, rights, and interest touching the trust premises, and shall be subject to the same duties and liabilities as if herein named as Trustee or Trustees.

Receipts of Executors and Trustees.—a full discharge to purchasers.

And, further, upon all sales which may be made by my Executors or Trustees, I will and declare that the receipts of my said Executors and Trustees, respectively, shall exempt the purchasers from being answerable for the misapplication or non-application of the purchase-money, or being concerned to see to the application thereof.

John R. Adan, George H. Kuhn, Francis C. Head, Executors. In

And I hereby nominate and appoint John R. Adan, Geo. H. Kuhn, and Francis C. Head, before-named, to be Executors

of this my last will and testament; and in case of the death, resignation, or removal, of one or more of them, I appoint the survivors, survivor, others or other of them, sole executors and sole executor of this my will; and I give to such survivors, survivor, others and other of them, all the power and direction herein given to my said Executors.

case of death, resignation, or removal of one or more of them, the others or other to act.

And, lastly, hereby revoking all former wills by me made, I declare this to be my last will and testament. In witness whereof, I, the said BENJAMIN BUSSEY, have set my hand and seal to this my last will and testament, contained in four sheets of paper, and have written my name in the margin of each preceding sheet thereof, this thirtieth day of July, in the year of our LORD one thousand eight hundred and thirty-five.

Signed, sealed, published, and declared, by the said BENJAMIN BUSSEY, the Testator, as and for his last will and testament, in the presence of us, who, at his request, and in his presence, and in the presence of each other, have hereunto subscribed our names as witnesses. [The words "of them," on the fourth page—"therein,"—"my Trustees,"—"living," and "said," on the seventh page,—and "provisions," and "order," on the ninth page,—"uses and" on the twelfth page,—and "mentioned" on the thirteenth page first interlined.]

BENJAMIN BUSSEY,

AND A SEAL.

CHARLES WELLS,
ROBT. CHAS. WINTHROP,
GEO. WM. PHILLIPS.

CODICIL.

Codicil, 22d Aug. 1837.

I, BENJAMIN BUSSEY, of Roxbury, in the county of Norfolk, and Commonwealth of Massachusetts, gentleman, do make this present Codicil, to be taken as and for part of my last will and testament, bearing date the thirtieth day of July, in the year of our Lord one thousand eight hundred and thirty-five.

I hereby ratify and confirm my said will, in all respects save so far as any part thereof shall be revoked by this codicil.

In and by my said will I have appointed John Quincy Adams, Samuel P. P. Fay, John C. Dexter, Nathaniel G. Snelling, Francis C. Head, John R. Adan, and George H. Kuhn, to be Trustees for the purposes therein expressed and contained. But inasmuch as the said John Quincy Adams is advanced in age, is much engaged in public office, and in the care of his own property, I apprehend that he may not be able to give so much time and attention to the care and management of my property as may be needful, or as would be given by a younger person;—I, therefore, revoke the said appointment of said John Quincy Adams, as one of said Trustees, and, also, the bequest of one thousand dollars to him, contained in said will. I believe he has an ample fortune.

Revocation of appointment of J. Q. Adams as a Trustee, and of legacy of $1000 to him.

Thomas Motley, Jr., Trustee.

In the stead and place of the said John Quincy Adams, I hereby appoint Thomas Motley, Jr., of Boston, in the county of Suffolk, in said Commonwealth, merchant, husband of my granddaughter, Maria B., to be one of the Trustees under said

will,—and I hereby give and devise to the said Thomas Motley, Jr., jointly with the Trustees named in said will, (excepting said Adams,) the same estates, rights, title, interests, and powers in and concerning the trust property therein and herein mentioned, and in and concerning the management and disposal thereof; and with the same indemnity, and without any bond to be given by him as Trustee; but subject to the same trusts, duties, and requirements, in the same manner, and as effectually to all intents and purposes as if he, the said Thomas Motley, Jr., had been originally, and in said will, appointed Trustee together with said other Trustees.

Devise in trust of real estate in Dedham, for benefit of Mrs. Stuart. See, also, codicil.

Since the date of my said will, certain real estate, consisting of several tracts of land, with the buildings thereon, and including a piece of woodland, containing about eighty-one acres, two quarters, and eighteen rods, situate in Dedham, in said county of Norfolk, has been conveyed to me by said Motley and his wife;—and I do hereby give and devise the same real estate and tracts of land to the said Samuel P. P. Fay, John C. Dexter, Nathaniel G. Snelling, Francis C. Head, John R. Adan, George H. Kuhn, and Thomas Motley, Jr., or to such of them as shall accept this Trust: To have and to hold the same to them and their assigns, and the survivors of them, and their assigns; and to the survivor of them, his heirs, executors, administrators and assigns; but in trust and confidence to hold, manage, and dispose of the same; and the rents, income, and profits thereof, as hereinafter directed, that is to say: I authorize and direct my said Trustees to permit my daughter, Eliza, now the wife of Enos Stewart, to occupy said real estate, conveyed to me as aforesaid by said Motley and his wife, and to take the rents, profits and income thereof, for the use and benefit of her, my said daughter, during her natural life, but on the following conditions, viz.: That my said daughter shall make the said real estate her principal place of residence, and keep the buildings

and fences thereon in good condition; and on the further condition that my said daughter may cut and take as much wood and fuel from said real estate as she may require for the use and consumption of herself and her family, but not any to be sold to, or used or consumed, by others; and that she shall not cut, or permit to be cut, any of the ornamental trees, excepting so far as it may be necessary to trim or prune the same. And if, in the opinion of my said Trustees, or of a majority of them, my said daughter shall not make the above-mentioned real estate her principal place of residence, or shall fail to observe and keep any or either of the above-mentioned conditions, I hereby authorize and empower the said Trustees, the survivors and survivor of them, and their successors, in their discretion, to take possession of said real estate,—to demise and lease the same on such terms as they may think prudent, and sell the same, or any part or parts thereof, from time to time, for such prices or considerations as they shall deem reasonable, at public vendue or private sale, and to make good and sufficient deed or deeds of conveyance of the same in fee simple to the purchaser or purchasers thereof.

And at and upon the decease of my said daughter, I authorise and empower my said Trustees, the survivors and survivor of them, and their successors, to lease and demise the whole of the above-mentioned real estate, or so much thereof as may then be undisposed of, or to sell and convey in fee simple the whole or any part or parts thereof, in the manner above-mentioned: Provided always, and it is my will that no part of the aforementioned piece of woodland shall be sold, but the same shall be held in trust, and be used, occupied, appropriated, conveyed and disposed of (subject to the above-mentioned interest of my daughter therein,) in the same manner, to and for the same uses and purposes, and upon and under the same conditions and restrictions as are mentioned and contained in my said will concerning my estate called Woodland Hill. And all

the net income, rents, and profits of the real estate conveyed to me as aforesaid, by said Motley and his wife, which my said Trustees shall receive, and all the net proceeds of any sale or sales of that portion of the said real estate herein authorized to be sold, shall be held, applied, and appropriated by my said Trustees in the same manner, and to and for the same objects, uses, and purposes as are mentioned in my said will, concerning the proceeds of the other portions of my property and estate which may be sold by my Trustees.

I earnestly hope that after my said daughter, Eliza, shall have returned from Europe, and I shall have deceased, she will elect to reside permanently during the residue of her life on the said real estate, conveyed to me as aforesaid, by said Motley and his wife, in a town which I think must be endeared to her by many happy recollections.

Whitney estate bought since date of will,—disposed of like Woodland Hill.

Whereas, since the date of my said will, Mrs. Sally Whitney, in her own right, and as guardian of Nathaniel D. Whitney, also the children of said Sally Whitney, and of Elisha Whitney, have conveyed to me several tracts of land, with the buildings thereon, situate in said county of Norfolk,—now, I hereby give and devise the same, and all lands and real estate, situate in said county of Norfolk, which I may purchase or acquire after the making of this codicil, and whereof I shall not make a different disposition, to the said Samuel P. P. Fay, John C. Dexter, Nathaniel G. Snelling, Francis C. Head, John R. Adan, George H. Kuhn, and Thomas Motley, Jr., or to such of them as shall accept this trust: To have and to hold the same to them and their assigns, and the survivors of them, and their assigns, and to the survivor of them, his heirs, executors, administrators and assigns; but in trust and confidence to permit my wife, Francis C. Head, Eliza Bussey Dexter, and Maria Bussey Motley, successively, and in the order in which I have here named

them, to occupy, use, and improve the same, each of them during his or her own life, upon the conditions and under the restrictions contained in my said will concerning their respective occupancy of my estate called Woodland Hill;—and from and after the decease of my said wife, of said Francis C. Head, and of my said granddaughters, or in case they shall not elect to occupy, use, and improve my mansion-house and real estate called Woodland Hill, together with the lands, and real estate, conveyed to me as aforesaid, by said Sally Whitney and others, and the real estate in said county of Norfolk I may hereafter acquire as aforesaid, as and for their personal residence respectively, or shall fail to comply with the said conditions and restrictions,—then, in trust to convey the said lands and real estate, and the appurtenances thereof, by good and sufficient deed or deeds of conveyance, to the President and Fellows of Harvard College, their successors and assigns, in fee simple, for the intents and purposes mentioned in my said will concerning my said estate called Woodland Hill. And such deed or deeds shall be made in such manner and form, and shall contain such limitations and provisions as my said Trustees shall deem proper and requisite for the accomplishment of my intentions. And I hereby give to my said Trustees, the survivors, and survivor of them, and their successors, all the direction, power and authority concerning the real estate conveyed to me as aforesaid by said Sally Whitney, and the children of said Sally and Elisha Whitney, and concerning any and all other real estate in said county of Norfolk, which I may purchase or acquire as aforesaid after the date hereof, which I have given to them concerning my said estate, called Woodland Hill.

Meaning of expressions "my mansion-house estate," &c. &c.

To avoid any misunderstanding, I would state that my estate, called Woodland Hill, comprises many separate tracts of land; and that by the expressions, "my mansion-house and estate in Roxbury, called Woodland Hill," and "my mansion-

house estate and farm in Roxbury, where I now live, called Woodland Hill," I mean and intend all my tracts of land whatsoever situate in said Roxbury, and my land in Dorchester,—subject to such provisions and limitations as are contained in my will and codicil.

Testator's family occupying Woodland Hill, may let Whitney estate.

I direct that either of my family, who may occupy my said mansion-house and estate in Roxbury, called Woodland Hill, under and pursuant to the provisions of my will and codicil, may let and demise, on such rents and conditions as they respectively may think expedient, the dwelling-house and buildings, or any of them, which are on the lands I purchased of said Sally Whitney and others since the date of my said will,—and such quantity of land therewith as my Trustees may think proper, for and during the time that such member of my family may hold my said estate, called Woodland Hill, in conformity to said provisions, and may receive the rent and income of the buildings and land so let and demised to and for his or her own use and benefit.

Land at Woodland Hill to be kept in good condition.

As I shall leave the lands in said county of Norfolk, which I have under cultivation, in good condition, and it is my earnest desire that they may ever be kept so, I request the persons of my family who may, from time to time, occupy my said mansion-house estate, called Woodland Hill, under the provisions of my will, to have the hay that may be obtained from said estate expended thereon,—or the soil otherwise enriched to the same extent, and to the satisfaction of my Trustees.

Trustees may adjust errors in contracts, &c., about Maine lands.

And whereas many tracts of land situate in the State of Maine, and also rights and interests therein have been conveyed by me, and to me, and I have made or become party to many contracts and obligations concerning real estate in Maine aforesaid, and it is possible that errors or inaccuracies exist in some of the releases, conveyances, or other instruments touching some

of said tracts of land, and my Trustees may deem it just and proper to make deeds or conveyances, or do some acts under or concerning such contracts, or in execution thereof, or for correction of such errors: Now I hereby authorize and empower my said Trustees, the survivors, and survivor of them, and their successors, to receive all such conveyances as they may think proper of or concerning any such lands, rights, or interests,—also to make and execute any and all such deeds of conveyance, and other instruments, as they may deem proper under any such contracts, or in execution thereof, or for the correction of any such errors or inaccuracies; to convey any of my land in said State of Maine in fee simple in execution of any such contracts, or in satisfaction of such errors, or pay any moneys or other consideration, or make any compromises, or adjustments they may judge expedient for or concerning the same;—it being my will that on this subject my said Trustees shall act with full power and entire freedom, as they in their discretion shall think proper.

I declare this writing, consisting of two sheets of paper, to be a codicil to my last will and testament, and direct it to be added thereto, and taken as part thereof.

In witness whereof, I, the said BENJAMIN BUSSEY, have hereunto set my hand and seal, this twenty-second day of August, in the year of our Lord one thousand eight hundred and thirty-seven.

Signed, sealed, published and declared, by the said BENJAMIN BUSSEY, as and for a codicil to his last will and testament, and to be taken as part thereof, in presence of us, who, at his request, in his presence, and in the presence of each other, have hereunto subscribed our names as witnesses.

BENJAMIN BUSSEY,

AND A SEAL.

CHARLES WELLS,
GEO. HALLET,
JOHN CENTER,
EDWARD S. RAND.

1746092

SECOND CODICIL.

Sept. 9, 1837.

I, BENJAMIN BUSSEY, of Roxbury, in the County of Norfolk, and Commonwealth of Massachusetts, gentleman, do make this codicil, to be taken as and for part of my last will and testament, bearing date the thirtieth day of July, in the year of our Lord one thousand eight hundred and thirty-five.

I hereby ratify and confirm my said will, and my codicil bearing date the twenty-second day of August last, in all respects save so far as any parts of said will have been altered or revoked by my said former codicil,—and save so far as any parts of said will and former codicil shall be altered or revoked by this instrument.

In and by my said will and former codicil I have appointed Samuel P. P. Fay, John C. Dexter, Nathaniel G. Snelling, Francis C. Head, John R. Adan, George H. Kuhn, and Thomas Motley, junior, to be Trustees for the purposes therein expressed and contained. My granddaughter, Eliza Bussey Dexter, wife of said John C. Dexter, having recently deceased, I deem it my duty to make the alterations in my said will and former codicil hereinafter expressed.

John C. Dexter *not* to be a Trustee. Geo. Hallet to be a Trustee.

I hereby revoke the said appointment of said John C. Dexter as one of said Trustees;—and in his stead and place, I hereby appoint George Hallet, formerly of Boston, in the county of Suffolk, in said Commonwealth, now of said Roxbury, merchant, to be one of said Trustees: And I hereby give and devise to the said George Hallet, jointly with the said Samuel P. P. Fay, Nathaniel G. Snelling, Francis C. Head, John R. Adan, George H. Kuhn, and Thomas Motley, junior, the same estates, rights, title, interests and powers, in and concerning the trust property mentioned in my said will, former codicil, and in this codicil, and in and concerning the management and disposal thereof, and with the same indemnity, and without any bond to be given by him as Trustee, but subject to the same trusts, duties, and requirements, in the same manner, and as effectually, to all intents and purposes, as if he, the said George Hallet, had been originally and in said will appointed Trustee together with said other Trustees.

Revocation of gift to J. C. Dexter of half of his wife's annuity.

And whereas in and by my said will I have provided, in the words following, viz: "And if either of my said granddaughters (Eliza Bussey Dexter or Maria Bussey Motley) shall die during the life of her mother or grandmother, or afterwards, leaving a husband, I direct my said Trustees to pay to such husband, in every year during his natural life, one half of the annuity to which his wife would be entitled if living." Now I hereby revoke the last recited bequest and provision so far as regards the said John C. Dexter, but no further or otherwise; and I renew and confirm the said bequest and provision in regard to said Thomas Motley, junior, husband of said Maria Bussey Motley.

Revocation of devise of Washington St Estate.

And whereas in and by my said will I have also provided, in the words following, viz: "And further I hereby authorize

and direct my Trustees to permit my granddaughter, Eliza Bussey Dexter, wife of John C. Dexter, to occupy and improve the tract of land and buildings thereon, with the appurtenances, situate near Washington street, in said Boston, recently conveyed to me by the Massachusetts Fire and Marine Insurance Company, or to take the rents and profits thereof during her life: And if said Eliza Bussey Dexter shall die, leaving a husband, such husband shall be permitted during his life to occupy and enjoy, or receive the rents and income of, said real estate near Washington street: And from and after the decease of my said granddaughter, Eliza Bussey Dexter, leaving issue living at her decease, I give, devise, and bequeath, to her heir or heirs at law, the said real estate near Washington street, subject to the right of her husband, if he survive her, to enjoy the same as hereinbefore provided, during his life: To have and to hold the same to such her heir or heirs at law (subject as aforesaid) and to their, his or her heirs, and assigns, in fee simple forever. I direct that the taxes and expense of insurance and repairs on said real estate near Washington street, shall be paid by the occupants thereof: And I direct my Trustees to hold the said real estate near Washington street, so occupied by said Eliza B. Dexter or her husband, in trust and for the uses and purposes aforesaid, or to convey the same by fit and proper deeds to the uses aforesaid,—so that a life-estate therein may be secured to said Eliza Bussey Dexter and her husband, and an estate in fee simple therein to her heirs at law." Now I hereby revoke the last recited bequest and provision, and every part thereof.

Revocation of every devise and bequest to J. C Dexter and wife respectively.

I also hereby revoke all and every the devises, bequests, and annuities contained in my said will and former codicil, so far as regards any benefit, advantage, or interest, which the said John C. Dexter and Eliza Bussey Dexter respectively could or might have derived therefrom,—but no further or otherwise.

Real estate, in Washington St., to J. C. Dexter for life, paying taxes, repairs, and insurance; — on his death it is to go to children of Eleanor and Maria, then living, and their issue. Trustees to hold said real estate for said objects.

The wife of said John C. Dexter having deceased leaving no child, and he having expressed an intention to reside hereafter out of the said Commonwealth, I have deemed it my duty to make the above appointment of a new Trustee in his place, and also the aforegoing revocations; but my friendship for the said John C. Dexter continues undiminished. And in token thereof, I hereby authorize and direct my Trustees to permit the said John C. Dexter to occupy and improve the said real estate situate near Washington street, conveyed to me by said Insurance Company, or to take the rents and profits thereof during his natural life,—he paying the taxes, and expenses of insurance, and repairs on said real estate. And at and upon the decease of the said John C. Dexter, I give and devise the said land and buildings near Washington street, with the appurtenances, in fee simple, to such of the children of my deceased granddaughter, Eleanor, the late wife of said Francis C. Head, and to such of the children of my granddaughter, Maria Bussey Motley, as shall then be living, in equal shares and proportions,—and to the issue, then living, of any one or more of said children who may have deceased,—such issue to take by right of representation the same share and interest in said real estate which his, her, or their parent, if living, would have taken: To hold to them, their heirs and assigns, forever. And I authorize and direct my Trustees to hold the said real estate near Washington street, during the life of said John C. Dexter, in trust and for the uses and purposes aforesaid,—and to make and execute such deeds and conveyances as may be needful or proper to give full effect to the aforegoing devise thereof.

Annuity of $1000 to Jno. C. Dexter.

I give and devise to the said John C. Dexter the annuity or clear yearly sum of one thousand dollars, to be paid to him in quarter yearly payments in every year during his natural life; and I direct my Trustees to pay the same accordingly.

I declare this writing to be a codicil to my last will and testament, and direct it to be added thereto, and taken as part thereof.

In witness whereof, I, the said BENJAMIN BUSSEY, have hereunto set my hand and seal, this ninth day of September, in the year of our Lord one thousand eight hundred and thirty-seven.

Signed, sealed, published and declared, by the said BENJAMIN BUSSEY, as and for a codicil to his last will and testament, and to be taken as part thereof, in presence of us, who, at his request and in his presence, and in the presence of each other, have hereunto subscribed our names as witnesses.

BENJAMIN BUSSEY,

AND A SEAL.

CHARLES WELLS,
ROBT. CHAS. WINTHROP,
GEO. WM. PHILLIPS.

17 June, 1849.

THIRD CODICIL.

I, Benjamin Bussey, of Roxbury, in the County of Norfolk, and Commonwealth of Massachusetts, gentleman, do make this codicil to be taken as and for part of my last will and testament bearing date the thirtieth day of July, in the year of our Lord eighteen hundred and thirty-five.

I hereby ratify and confirm my said will, and the two codicils thereto, heretofore made by me, but subject to any and all alterations and revocations made by said former codicils or either of them, and subject to such as shall be made by this instrument.

Trustees not to build on estate in Summer St.

I hereby *revoke* my direction contained in said will, that my real estate in Summer street, in the city of Boston, shall not be sold or alienated,—and also revoke all and singular directions and provisions therein contained, for or concerning the erection of any dwelling-houses or building whatever on my land in said Summer street,—and all and singular my requests and directions to my Trustees to permit Francis C. Head and Maria Bussey Motley respectively to occupy one of said houses and the land and appurtenances belonging or appropriated thereto,—or to take the rents and profits thereof,—and all and singular my directions and provisions, appropriating one of said houses, and the land and appurtenances appropriated thereto, to said Head, and another to said Maria B.,—and also my direction, appropriating one of said houses, and the land and appurtenances appropriated thereto, to the husband of said Maria B. during his

life, in the event of his surviving her;—and my devise of one of said houses, and the land and appurtenances appropriated thereto, to the heir or heirs at law of said Francis C. Head, in fee simple; and another of said houses, and the land and appurtenances appropriated thereto, to the heir or heirs at law of said Maria B., in fee simple;—and also my directions for my Trustees to hold said houses, and the land and appurtenances appropriated thereto, in trust for the benefit of said Francis C. and Maria B., or either of them, their respective heirs or assigns, or the husband of said Maria B.,—or to make any conveyances thereof to, or for the benefit of, them, any or either of them, their respective heirs or assigns: and, generally, I revoke all and singular directions and provisions, contained in my said will, for or concerning the erection of any house or building on my said estate in Summer street, or appropriating any of said real estate in Summer street, or any building to be erected thereon, for the use or benefit of said Francis C. Head, said Maria B. Motley, their respective heirs or assigns, or her husband.

I confirm the provision in my said will that after my decease, my wife, during her natural life, shall use, occupy, and enjoy, my dwelling-house and land in said Summer street, or take to her own use the rents and profits thereof, on the terms therein set forth.

Ex'ors or Trustees may sell estate in Summer street, subject to Mrs. Bussey's life-estate therein.

And, subject to the life-estate and interest given and devised by me to, or for the benefit of my wife, in my said real estate in Summer street, I hereby authorize and empower my Executors, and also my Trustees, respectively, in their discretion to sell my said real estate in Summer street, or any part or parts thereof, at public auction or private sale, at such time or times, for such price or prices, on such terms and conditions, and for cash or on credit, as my Executors or my Trustees may deem

expedient, and to make and execute good and sufficient conveyances thereof, in fee simple or for any less estate; and, from the net proceeds of such sale or sales, to pay my just debts, the charges on my estate, and such legacies and bequests, given by me, as may be due and payable: And I direct that the net balance and surplus of such proceeds remaining (if any) shall be paid to the Trustees under my will, to be by them held, applied, and appropriated in the same manner, and to and for the same objects, uses, and purposes as they are directed, in my will, to hold, apply, and appropriate the proceeds of other portions of my real estate, and property which may be sold by my Trustees.

Revocation of devise of estate in Dedham, for benefit of Mrs. Stuart.

In a codicil made by me, and bearing date the twenty-second day of August, A. D. eighteen hundred and thirty-seven, I gave and devised several tracts of land, with the buildings thereon, including a piece of woodland situate in Dedham, and which were conveyed to me by Thomas Motley, junior, and his wife, to my Trustees, in trust to permit my daughter Eliza, the wife of Mr. Enos Stewart, to occupy the same, and take the rents, profits and income thereof, during her natural life, upon the terms therein mentioned,—and upon and subject to the other trusts therein set forth: which gift and devise I hereby revoke.

Revocation of devise of annuity of $100 to D. Bussey and wife, and of devise of real estate in Lincolnville to them and Jaazaniah.

My uncle, David Bussey, lately of Lincolnville, in the State of Maine, and his wife, and his grandson Jaazaniah Bussey, having died since the date of my will, I hereby revoke my bequest of an annuity of one hundred dollars to said David and his wife;—also the devise, contained in my will, of the use and improvement of certain real estate, in said Lincolnville, to said David and his wife during their joint lives, and to the survivor of them during his or her life, and to the wife of his son, Samuel, during her life, and the devise of the same real estate,

(after the death of said David, his wife, and the wife of said Samuel,) to said Jaazaniah in fee simple: And, in lieu thereof, I give and devise the use and improvement of said real estate in Lincolnville, to the wife of said Samuel during her natural life; and, at and after her decease, I devise the same, with the privileges and appurtenances thereof, to Hugh Coleman, the husband of said Jaazaniah's sister, to have and to hold the same to him, his heirs and assigns, to his and their use and behoof forever.

Devise of said real estate to Samuel Bussey for life,—remainder to Hugh Coleman in fee simple.

I revoke the gift to John C. Dexter, of an annuity or clear yearly sum of one thousand dollars, which I gave him in and by my codicil bearing date the ninth day of September, A. D. eighteen hundred and thirty-seven, and which I therein directed to be paid to him in quarter yearly payments, in every year during his natural life.

Annuity of $1000 to J. C. Dexter revoked.

In addition to the annuity given in my will to my sister-in-law, Mrs. Lucy Bussey, I give and bequeath to her the additional annuity or clear yearly sum of three hundred dollars, to be paid to her in quarter yearly payments, in every year during her natural life;—and I direct my Trustees to pay the same accordingly.

Further annuity of $300 to Mrs. Lucy Bussey.

Desirous that, when my estate, called "Woodland Hill," shall come into the possession of the President and Fellows of Harvard College, it may be in good condition, I direct that, so long as my wife, Francis C. Head, or Maria B. Motley, or either of them, after my decease, shall be entitled to occupy the same, none of the trees thereon shall be cut or removed, excepting such as may have died, and excepting so far as it shall be necessary to prune the trees, or remove any of them for the beauty of the groves and walks.

No trees to be cut down on Woodland Hill.

I declare this writing to be a codicil to my last will and testament, and I direct it to be added thereto, and taken as part thereof.

In witness whereof, I, the said BENJAMIN BUSSEY, have hereunto set my hand and seal, this seventeenth day of June, in the year of our Lord one thousand eight hundred and forty.

Signed, sealed, published and declared, by the said BENJAMIN BUSSEY, as and for a codicil to his last will and testament, and to be taken as part thereof, in presence of us, who, at his request, in his presence, and in the presence of each other, have hereunto subscribed our names as witnesses.

BENJAMIN BUSSEY,

AND A SEAL.

CHARLES WELLS,
EDWARD S. RAND,
JOHN CENTER.

FOURTH CODICIL.

19 May, 1841.

I, BENJAMIN BUSSEY, of Roxbury, in the County of Norfolk, and Commonwealth of Massachusetts, gentleman, do make this codicil, to be taken as and for part of my last will and testament, bearing date the thirtieth day of July, in the year of our Lord eighteen hundred and thirty-five.

I hereby ratify and confirm my said will and the three codicils thereto, heretofore made by me, but subject to any and all alterations, and revocations, made by said former codicils, or either of them, and subject to such as shall be made by this instrument.

$1000 legacy to each of the lawful issue of testator's son, Benjamin, if any such there be.

Whereas, I have always believed that my deceased son, Benjamin, died without leaving any lawful issue living at the time of his decease,—but have very recently been informed that in this opinion I may be mistaken: Now, I hereby give to each and every person, being the lawful issue of my said son, and living at the time of my decease, if any such there be, the sum of one thousand dollars,—to be paid at the expiration of one year after my decease, without interest.

I declare this writing to be a codicil to my last will and testament, and I direct it to be added thereto, and taken as part thereof.

In witness whereof, I, the said BENJAMIN BUSSEY, have hereunto set my hand and seal, this nineteenth day of May, in the year of our Lord one thousand eight hundred and forty-one.

Signed, sealed, published and declared, by the said BENJAMIN BUSSEY, as and for a codicil to his last will and testament, and to be taken as part thereof, in presence of us, who, at his request, in his presence, and in the presence of each other, have hereunto subscribed our names as witnesses.

BENJAMIN BUSSEY,

AND A SEAL.

JOHN CENTER,
CHARLES WELLS,
H. SIDNEY WALDO.

I certify the aforegoing to be true copies of the will and codicils of said BENJAMIN BUSSEY, deceased, duly proved, approved and allowed, at a Court of Probate held at Dedham, on the first Tuesday of March, A. D. 1842.

J. H. COBB,
Register of Probate.

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